the longest taking 32 months.[54] The record since then has not improved. The one exclusivity complaint that was decided between 1998 and 2007, when the Commission adopted new procedures intended to streamline the complaint process,[55] took more than eleven months to resolve.[56]

Even with the streamlined procedures adopted in 2007, the adjudication process takes far too long, as AT&T's experience amply shows. AT&T filed its program access complaint against Cox for withholding of terrestrially-delivered Padres programming in San Diego in 2008. AT&T's complaint alleged a violation of the statute, not the Commission's rules (which did not, at that time, extend to terrestrially delivered programming), in reliance on the Commission's recent *MDU Order*, in which it held that section 628(b) broadly prohibits any unfair act by a vertically integrated cable operator that has the purpose or effect of significantly hindering video competition.[57] As the Commission's self-imposed five month deadline for deciding program access complaints expired,[58] the Media Bureau denied AT&T's Complaint.[59] It did not do so based on a reasoned consideration of the arguments presented – whether, under the

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[54] Petition for Rulemaking of Ameritech New Media, Inc. Regarding Development of Competition and Diversity in Video Programming Distribution and Carriage at 12 (filed May 16, 1997), citing *American Cable v. Telecable of Columbus*, Memorandum Opinion and Order, 11 FCC Rcd 10090 (1996).

[55] *2007 Program Access Order* at ¶¶ 83-113.

[56] *Everest Midwest Licensee, LLC v. Kansas City Cable Partners and Metro Sports*, CSR-6094-P, DA 03-4077 (2003).

[57] *AT&T vs. Cox Complaint* at ¶ 23, 26 FCC Rcd 13145, 13165 citing *Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling Units and Other RealEstate Developments*, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Red 20235 (2007) *("MDU Order'), aff'd sub nom. Nat'l Cable & Telecomm. Ass'n v. FCC*, 567 F.3d 659 (D.C. Cir. 2009).

[58] AT&T filed its Complaint on September 11, 2008 and its Amended Complaint on October 6, 2008; thus, the deadline for action was March 6, 2009.

[59] *AT&T Services Inc. v. CoxCom, Inc.*, CSR-8066-P, Memorandum Opinion and Order, DA 09-530 (rel. Mar. 9, 2009) (*Cox Order*).

Commission's *MDU Order*, AT&T's claims were cognizable under section 628(b); instead, it inexplicably relied on decisions that predated the *MDU Order*, and which even the Bureau acknowledged did not reach the issue AT&T raised. In addition, the Bureau suggested that, because the issue raised by its complaint was novel, AT&T should seek relief in a pending *rulemaking* proceeding or bring a claim in the future under the FCC's rules, rather than pursue a violation of the statute itself.[60]

AT&T promptly filed an application for review of the Bureau's decision on April 9, 2009, but the Commission never ruled on that application. More than a year later, and six months after the Commission approved its 2010 Terrestrial Loophole Report and Order, Cox hired Fox Networks to negotiate license fees for Cox-4, but AT&T has been unable to strike a deal for Cox-4 because of the very high license fees demanded by Fox. In short, even though the Commission ultimately agreed with AT&T that complaints regarding withholding of terrestrial programming are cognizable under section 628(b), AT&T was forced to wait more than a year and a half for the Commission to rule on its complaint, and ultimately never received a decision.

AT&T's complaint against Cablevision for withholding the terrestrially delivered HD streams of MSG/MSG+ programming did not fare much better. AT&T filed that complaint in August 2009, claiming that Cablevision's actions violated section 628(b). The Commission did not resolve AT&T's complaint until 13 months later, more than 9 months after the Commission ruled in the *2010 Program Access Order* that claims relating to terrestrially delivered programming were cognizable under section 628(b), rejecting Cablevision's primary defense to AT&T's claims, and adopting a rebuttable presumption that withholding terrestrially delivered RSN programming (including the HD feeds of such programming), violates section 628(b).

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[60] *Id.* at 16.

These cases clearly establish that case-by-case adjudication of cases involving exclusive programming contracts is insufficient to preserve and protect competition and diversity in video programming distribution because the Commission's resolution of program access complaints is not sufficiently expeditious. In program access complaints, time is on the incumbents' side. While the Commission delays resolving such complaints, a competitor and its subscribers may miss an entire basketball, baseball, or hockey season, or an entire new season of popular programming like Pawn Stars. Such delays undermine a competing MVPD's ability to attract new subscribers and retain existing subscribers. In the end, it is consumers that lose out by being denied the programming they desire and the benefits of having a competitive choice of video providers.

Even a rebuttable presumption that withholding of satellite-delivered video programming violates section 628(b), like that adopted by the Commission with respect to terrestrially-delivered RSN programming, would not dissuade vertically integrated programmers from engaging in anticompetitive withholding strategies to prevent, or at least delay competition to their downstream cable affiliates. As Cablevision's withholding of terrestrially delivered, HD MSG/MSG+ regional sports programming for more than 9 months after the Commission adopted its rebuttable presumption with respect such programming shows, vertically integrated cable operators and their programming affiliates have every incentive to delay effective competition in the provision of multichannel video programming as long as possible. For these reasons, nothing short of retaining the existing ban on exclusive programming contracts will suffice to meet congressional objectives.

D. Eliminating the Exclusivity Prohibition is Unnecessary to Provide Incentives to Innovate and Invest in New Programming.

AT&T expects that proponents of eliminating the ban on exclusive contracts will argue, as they have previously, that allowing exclusive contracts will benefit consumers by encouraging additional innovation and investment in new programming content. But there is no evidence that innovation and investment has in any way suffered while that ban has been in place. Indeed, since the exclusivity limitation was first imposed, the total number of satellite delivered national programming networks has literally exploded, increasing eight-fold from 106 to over 800 networks,[61] and the number of such networks that are cable-affiliated has more than doubled, from 56 to 115.[62] The number of regional sports networks quadrupled from 27 in 1998 to 109 today.[63] As these data show, the exclusivity ban has not discouraged innovation and investment in new video programming networks or content, either on the part of independent programmers or those vertically affiliated with cable operators.

That is not surprising. If exclusive contracts, in fact, encouraged innovation and investment in new programming, one would expect to find numerous (or at least some) situations in which independent programmers (*i.e.*, those not affiliated with a cable operator) have concluded such agreements. But that is not the case. As far as AT&T is aware, the lone example of such an arrangement is DIRECTV's exclusivity arrangement with the NFL, with which no video programming distributor is affiliated, for the Sunday Ticket, and even that arrangement does not involve a cable operator. In any event, section 628 already provides a process for vertically integrated cable operators and their programming affiliates to petition the Commission

[61] *NPRM* Appendix B, citing *Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming,* First Report and Order, 9 FCC Rcd 7442, 7589-92 (1994).

[62] *Id.*

[63] *NPRM* Appendix C.

for a finding that exclusivity is in the public interest.[64] In the 20 years since that provision was enacted, the Commission has received only ten petitions, and only five were prosecuted all the way to a decision (of which two were granted).[65] The fact that so few petitions have been filed, and even fewer granted, confirms that exclusivity arrangements are not necessary to encourage innovation and investment in new video programming, and thus generally are not in the public interest.

To the extent the Commission is concerned that retaining the existing exclusivity limitation might preclude procompetitive exclusivity arrangements under existing market conditions (despite the lack of any evidence supporting such a concern), the Commission should consider streamlining the exclusivity application process under Section 628(c)(4) instead of diluting or eliminating the exclusivity ban. For example, the Commission could consider any unopposed exclusivity request to be deemed granted. There may be other ways in which the Commission could amend its rules to enable vertically integrated programmers and their cable affiliates to obtain quick approval for any genuinely procompetitive exclusive programming contract. But, what the Commission should not do is eliminate or otherwise relax the exclusivity ban given the overwhelming evidence that such entities still retain the incentive and ability to withhold programming and thus hinder competition and diversity in the programming distribution market, and the lack of any showing to date that: (1) the ban has inhibited incentives to innovate and invest in new programming; and (2) exclusive programming contracts generally serve a legitimate business purpose or otherwise are in the public interest.

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[64] 47 U.S.C. § 628(c)(4); 47 CFR 76.1002(c)(5).

[65] *See e.g. New England Cable News Channel,* Memorandum Opinion and Order, 9 FCC Rcd 3231 (1994) and *NewsChannel,* Memorandum Opinion and Order, 10 FCC Rcd 691 (1994).

3. Conclusion.

For the foregoing reasons, the Commission should not allow the exclusive access prohibition to sunset; rather, it should once again extend it. To the extent the Commission is concerned that the prohibition may inhibit efficient arrangements or otherwise denying consumers the benefits that exclusivity may bring under appropriate market conditions, it should consider streamlining the process by which vertically integrated cable operators and affiliated programmers can obtain a ruling that exclusivity is in the public interest.

Respectfully submitted,

/s/ Christopher M. Heimann

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June 22, 2012

ATTACHMENT 1

REDACTED – FOR PUBLIC INSPECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

AT&T SERVICES, INC. AND PACIFIC BELL TELEPHONE COMPANY D/B/A SBC CALIFORNIA D/B/A AT&T CALIFORNIA, Complainants, v. COXCOM, INC. Defendant.	File No. CSR-8066-P

DECLARATION OF CHRISTOPHER SAMBAR

1. My name is Christopher Sambar. My business address is 3883 Murphy Canyon Road, Room 290, San Diego, CA 92123.

2. Since September 2006, I have held the position of General Manager for AT&T U-verse in the San Diego area. In my position I am responsible for network and field operations, the engineering build plan, marketing strategy, and sales strategy and implementation for U-verse in San Diego. Before assuming this position, I held positions within AT&T having responsibility over network operations, sales strategy, and small and medium business sales.

IMPORTANCE OF PADRES PROGRAMMING FOR U-VERSE IN SAN DIEGO

3. AT&T's U-verse platform in San Diego supports three service offerings—a high-speed Internet access service, a voice-over-Internet-Protocol ("VoIP") service, and a

multichannel video programming service ("U-verse TV"). Nearly all U-verse subscribers in San Diego—**[highly confidential*** ***end]** percent—purchase packages that include U-verse TV service. *See* Exhibit 1.

4. Survey data and objective sales data compiled by AT&T demonstrate that the lack of the Cox-4 channel, and, in particular, Padres programming, is significantly hampering AT&T's efforts to gain and keep U-verse subscribers in San Diego.

5. In April 2007, AT&T's Customer Analytics and Research division conducted a study examining the impact that the lack of Padres programming would have on AT&T's ability to attract and retain customers. *See* Exhibit 2. The study group was composed of **[highly confidential*** ***end]** consisting of AT&T customers from the San Diego area that responded to an email solicitation **[highly confidential*** ***end]**. *See id.* at 3.

6. When asked to select "up to 10 channels that you would say are your 'favorite' channels," **[highly confidential*** ***end]** percent of the 2007 survey respondents included the Padres Channel, *i.e.*, Cox-4, as one of their favorites. *See id.* at 14. Of that sub-sample, **[highly confidential*** ***end]** percent would "definitely" switch their cable or satellite provider if the provider "decided to drop" the Padres Channel. *See id.* at 15. When asked, "How important is it [to] you to have the Padres Channel included as part of your cable or satellite channel lineup?," **[highly confidential*** ***end]** percent of all panel participants described it as "extremely important" with another **[highly confidential*** ***end]** percent describing it as "important." *See id.* at 19. Individual comments **[highly confidential*** ***end]** again confirmed that many participants would not accept any substitute for

the Padres Channel, and would not consider any video subscription service that lacked Padres programming. *See id.* at 22 and Exhibit 3.

7. In March 2008, the study was repeated and yielded similar results. *See* Exhibit 4. **[highly confidential*** ***end]** percent of the 2008 survey participants said that it was "extremely important" to have the Padres Channel included as a part of their cable or satellite channel lineup, with another **[highly confidential*** ***end]** percent stating that it was "important." *See id.* at 18. Further, the study asked respondents to rank possible alternatives to receiving the Padres Channel, including a provider's offer of substitutes such as free tickets to a Padres game or a $50 Visa gift card. But when asked "how likely would you be to consider service" from a provider that "offered your first choice" of such alternatives, over **[highly confidential*** ***end]** percent of those surveyed still responded they were "extremely unlikely" or "somewhat unlikely" to consider service from a provider that did not offer the Padres Channel. *See id.* at 16-17.

8. Field data provide similar evidence concerning the detrimental impact that lack of Padres programming has on subscriptions to AT&T's U-verse service. A January 2008 study of door-to-door U-verse sales visits in the San Diego area found that, among customers who declined to purchase U-verse, **[highly confidential*** ***end]** percent attributed their decision to the lack of Padres programming. *See* Exhibit 5.

9. Similarly, from March through May 2008, AT&T's customer-retention "save team" spoke with numerous U-verse subscribers in San Diego who either (1) were disconnecting their service, or (2) had ordered service but were cancelling their order prior to activation of the service. *See* Exhibit 6. The save team's data indicates that **[highly confidential***

end] percent of service disconnections and **[highly confidential ***end]** percent of order cancellations during that period were due to the lack of Padres programming. *See id.*

10. A comparison with other areas also indicates that U-verse sales in San Diego have suffered as a result of Cox's withholding of Padres programming. For the period from September 2007 through July 2008, the monthly rate of U-verse sales in the San Diego area was **[highly confidential*** ***end]** per thousand living units. However, the average monthly sales rate for **[highly confidential*** ***end]** was **[highly confidential*** ***end]** per thousand living units, with **[highly confidential*** ***end]**. Thus, San Diego's U-verse sales penetration rate was **[highly confidential*** ***end]** percent lower than might reasonably have been expected.

11. Similarly, San Diego's "churn" rate—the rate at which existing subscribers disconnect their service—is higher than the rate AT&T has experienced **[highly confidential*** ***end]**. For the period from September 2007 through July 2008, San Diego's monthly churn rate averaged **[highly confidential*** ***end]** percent. *See* Exhibit 7. Over the same period, the average churn rate from **[highly confidential*** ***end]** was **[highly confidential*** ***end]** percent. San Diego's U-verse churn rate was thus **[highly confidential*** ***end]** percent higher than expected.

12. The role that the absence of Padres programming plays in disconnections and order cancellations is so significant that AT&T has found it necessary to modify its point-of-sale

order form to include an explicit customer disclosure regarding the lack of Padres programming. *See* Exhibit 8. Every customer ordering U-verse through AT&T's door-to-door or event-based sales channels must sign this disclosure, and customers that order over the phone hear an oral disclosure concerning the lack of Padres programming to confirm that they understand this at the time they subscribe.

13. Furthermore, Cox itself actively is using its exclusive access to Padres programming to differentiate its service from U-verse. Cox's website, for example, advertises Cox-4 as "All Padres . . . All HD . . . All the time . . . **only on cable!**" Exhibit 9 (emphasis in original). This same statement appears in Cox's email advertising. *See* Exhibit 10. And the company's website also proclaims that "Cox values its partnership with the local community and will give you the best coverage of local sports with Channel 4 San Diego, including 150 Padres games in HD. *You won't find that on satellite.*" *See* Exhibit 9 at 5 (emphasis in original). Cox's television advertising similarly touts its exclusive access to Padres programming. *See* Exhibit 11. Cox recently has started offering its own high-speed Internet customers exclusive access to "Padres.TV"—a special service allowing Cox subscribers to watch all Padres games online. *See* Exhibit 12.

14. Finally, despite withholding Cox-4 from AT&T, Cox licenses the channel to Time Warner, which provides incumbent cable services in areas adjacent to Cox's San Diego footprint. With less than one percent overlap between Cox's and Time Warner's San Diego footprints, Time Warner generally does not compete with Cox. Notably, Time Warner's advertising in San Diego, like that of Cox, trumpets that Cox-4 is available "exclusively on cable." *See* Exhibit 13.

15. In short, there is ample evidence that by withholding Cox-4, and the Padres programming in particular, Cox has directly hindered AT&T's ability to offer a video subscription service in San Diego that customers will consider a viable alternative to Cox's incumbent cable service.

COSTS INCURRED DUE TO LACK OF PADRES PROGRAMMING

16. AT&T has incurred significant costs due to the lack of Padres programming on U-verse TV. These costs fall into several distinct categories across AT&T's business, and seriously compromise AT&T's ability to launch a successful, competitive video offering.

17. First, the loss of actual and potential subscribers that AT&T suffers as a result of Cox's withholding of Padres programming increases AT&T's per-subscriber programming costs in San Diego. Video programming vendors typically charge a per-subscriber fee to MVPDs, which increases as the number of subscribers drops. Thus, as AT&T loses subscribers, it is forced to pay more in per-subscriber costs for *all* of its programming, across the board. This, of course, reduces AT&T's profit margin for any customer—and by inflating the return AT&T must make per-customer to cover its costs, it threatens to further compromise AT&T's ability to offer a viable competitive video service offering by putting upward pressure on AT&T's rates.

18. Second, AT&T must pay more to market and advertise U-verse TV than it would in the absence of the Padres problem. AT&T has been forced to use more targeted and sophisticated—and thus more expensive—marketing campaigns to reach the subset of San Diego consumers who will consider U-verse despite the lack of Cox-4. And because the return on this discrete group is limited, it is not clear that AT&T will fully recover those costs (or that it would have expended the resources to specifically pursue this group in the absence of the Padres issue).

In addition, AT&T has been compelled to offer promotions—such as free Padres tickets and gift cards—to persuade customers to try U-verse despite the lack of Cox-4. For a time, AT&T even offered free high-definition service to consumers in San Diego with the explicit aim of attracting fans of sports teams other than the Padres. These additional costs have burdened AT&T in San Diego, increasing its per-customer expenses and depressing its revenues accordingly.

19. Third, AT&T has been forced to bear higher transactional sales costs: Because Padres programming plays such a significant role in San Diego customers' MVPD choice, AT&T must (as described above) warn all new customers about the lack of Cox-4, and receive a customer acknowledgement of that disclosure. This increases the length of the average sales call, and imposes record-keeping and training requirements, all of which impose incremental costs on the company.

20. Fourth, and along similar lines, AT&T's customer service costs are higher as a result of dealing with increased rates of cancellation and disconnections from customers upset by the lack of Cox-4. Training and staffing costs also are incrementally higher; for example, AT&T's entire national U-verse call center team must be specially trained by personnel in San Diego regarding the lack of Padres programming.

LOST CUSTOMERS AND REVENUES DUE TO LACK OF PADRES PROGRAMMING

21. In addition to increased costs, AT&T also has lost customers and suffered substantially decreased revenues as a result of Cox's withholding of Padres programming.

22. During the relevant time period, AT&T's total number of U-verse subscribers in service in San Diego increased from approximately **[highly confidential*** ***end]** at the beginning of September 2007 to approximately **[highly confidential*** ***end]** at

the end of July 2008. AT&T's gross sales for U-verse in San Diego during that period were **[highly confidential*** ***end]** service orders. However, the evidence above demonstrates that AT&T would have had more sales if it had had access to Padres programming during the relevant period; the lack of programming led to many lost sales opportunities.

23. Further, **[highly confidential*** ***end]** of AT&T's service orders during this period were cancelled prior to the initiation of service. In addition, **[highly confidential*** ***end]** customers disconnected their existing service. *See* Exhibit 7. As discussed above, many of these subscribers were lost due to the lack of Padres programming, which led both to (1) a higher rate of cancellations prior to service activation and (2) a higher rate of subscriber disconnections following activation ("churn").

24. **Lost Sales:** AT&T experienced a combined loss of sales of **[highly confidential*** ***end]** customers for the relevant time period due to the lack of Padres programming. This figure is based on the conservative assumption that **[highly confidential*** ***end]** percent of potential customers chose not to enroll in U-verse service due to the unavailability of Padres programming. That assumption, in turn, is derived from the 2008 survey conducted by AT&T's Customer Analytics and Research division, in which approximately **[highly confidential*** ***end]** percent of potential customers reported that it was "extremely important" to have the Padres Channel included in their channel lineup. *See* Exhibit 4 at 18; *see also* ¶ 7 above. This estimate is conservative because (1) it does not include the additional **[highly confidential*** ***end]** percent of potential customers who described the Padres Channel as merely "important," *see id.*; and (2) it is lower than the **[highly confidential*** ***end]** percent of customers who reported that they would be "extremely

unlikely" to purchase service from any provider who did not include the Padres Channel, even if **[highly confidential***** *****end]**. *See* Exhibit 4 at 16-17.

25. Using the **[highly confidential***** *****end]** percent assumption concerning customers lost as a result of the lack of Padres programming, the number of lost sales opportunities was computed on a monthly basis by dividing the actual U-verse San Diego gross sales figure for each month by **[highly confidential***** *****end]** to arrive at the number of gross sales that reasonably could have been expected had AT&T carried the Padres Channel. *See* Exhibit 7. The difference between this number and the actual U-verse sales figure for each month was then discounted by a cancel rate adjustment and a churn rate adjustment to account for the number of potential sales that might have been lost anyway due to normal cancellation or churn. *See id.* These calculations show that AT&T's net loss in sales for the period due to the lack of Padres programming was determined to be **[highly confidential***** *****end]** customers.

26. **Increased Cancellations:** AT&T additionally experienced a loss of **[highly confidential***** *****end]** customers for the relevant time period due to increased order cancellations as a result of the lack of Padres programming. This figure is based on the AT&T "save team" data compiled between March and May 2008 showing that **[highly confidential***** *****end]** percent of cancellations during that time period were due to the lack of Padres programming. *See* Exhibit 6; *see also* ¶ 9 above. The number of cancellations due to the lack of Padres programming was computed on a monthly basis by multiplying the total number of actual U-verse cancellations by **[highly confidential***** *****end]** percent.

27. **Increased Churn:** Finally, AT&T experienced a loss of **[highly confidential*** ***end]** customers during the relevant time period due to increased service disconnections ("churn") from the lack of Padres programming. This figure is based on the AT&T "save team" data compiled between March and May 2008 showing that **[highly confidential*** ***end]** percent of cancellations during that time period were due to the lack of Padres programming. *See* Exhibit 6; *see also* ¶ 9 above. The number of service disconnections due to lack of Padres programming was computed on a monthly basis by multiplying the total number of actual U-verse calculations by **[highly confidential*** ***end]** percent.

28. Thus, AT&T incurred a total of **[highly confidential*** ***end]** lost customers during the relevant time period due to the lack of Padres programming, based on the combination of lost sales, increased order cancellations, and increased churn. *See* Exhibit 7.

29. AT&T's average monthly "churn" rate for U-verse in San Diego during the relevant time period was **[highly confidential*** ***end]** percent. *See* Exhibit 7. Based on this rate, the average life-cycle of a typical customer in San Diego during the relevant time period was extrapolated to be **[highly confidential*** ***end]** months.

30. Cox's withholding of Padres programming and the resulting loss of existing and potential customers has significantly impacted AT&T's present and expected revenues. AT&T's average monthly revenue per user for U-Verse in San Diego is **[highly confidential*** ***end]**. *See* Exhibit 1. This revenue comes not only from U-verse TV, but also from the voice and high-speed Internet services that San Diego customers purchase as part of their U-verse bundles (nearly all of U-verse platform customers in San Diego—**[highly confidential *** ***end]** percent—purchase video service). Accordingly, this revenue figure is weighted to

account for the percentage of subscribers purchasing different U-verse service components. *See id.*

31. Based on a total of **[highly confidential*** ***end]** lost subscriber opportunities, an average subscriber lifetime of **[highly confidential*** ***end]** months, and revenue of **[highly confidential*** ***end]** per subscriber, AT&T's combined losses of present and expected revenues due to Padres-related lost customer opportunities during the relevant time period were **[highly confidential*** ***end]**. *See* Exhibit 7.

32. Overall, therefore, AT&T estimates that it has lost over **[highly confidential*** ***end]** in gross revenues from September 2007 through July 2008 due to the lack of Padres programming. *See* Exhibit 7. And even this assessment is low, since it fails to account for the fact that, over time, AT&T expects its per-customer revenues to climb significantly. If AT&T had adjusted for this phenomenon over the expected life of the customers it has lost due to Cox's withholding, the lost expected revenue would be even higher than is reflected in AT&T's calculation.

33. And the impact goes beyond U-verse-related revenues. AT&T has found that the ability to offer a meaningful alternative to the cable incumbent not only produces video revenues, but also helps AT&T stem the loss of legacy voice customers that might otherwise migrate to the cable platform. Specifically, offering a meaningful U-verse TV alternative allows AT&T to keep or win back those voice customers who prefer to purchase all their services from one vendor. The cable incumbents initially had a head start on the telephone companies in providing such bundled service offerings, but AT&T now can offer customers a meaningful

cable television alternative together with voice and broadband. But if Cox's withholding of Padres programming undermines U-verse TV, AT&T may lose some customers—even legacy voice customers—altogether, and in some cases permanently. The loss thus goes beyond the U-verse business and can be persistent and severe.

REDACTED – FOR PUBLIC INSPECTION

Pursuant to 28 U.S.C. § 1746 and 47 C.F.R. § 1.16, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 26, 2008

Christopher Sambar

1

REDACTED-FOR PUBLIC INSPECTION

Consumer U-verse ARPU (Enterprise Results) - for Padres Analysis

<u>August 2008 Results - San Diego</u>

	ARPU	Attach rate	Weighted ARPU
IPTV			
HSIA			
VoIP			
U-verse Subscriber			

<u>Results through 9/7/08</u>	Attach rate
U-verse Inservice	
IPTV Inservice	
HSIA Inservice	
VoIP Inservice	

U-verse IPTV Churn	Sep 07 - Jul 08
Average Lifetime (months)	

Source

Inservice volumes- U-verse Scorecard 7/29
Churn- Deacon Daily U-verse
Churn calculated on market study data
ARPU - Enterprise number for all Uverse customers

2

REDACTED-FOR PUBLIC INSPECTION

SD Channel Preference 04-07
A Fast Filter ePanel Survey

April 2007

Contact:
Kurt Anderson (203) 771-1072
Jon Cowper (210) 886-2060

CA&R Customer Analytics & Research

at&t

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